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13  
14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE EASTERN DISTRICT OF CALIFORNIA

16  
17 UNITED STATES OF AMERICA, ) Case No. 2:22-cr-00245-WBS  
18 Plaintiff, )  
19 vs. ) **STIPULATION AND ORDER FOR BREND A  
20 VILLA TO REMAIN ON RELEASE  
21 PENDING APPEAL**  
22 BREND A VILLA, )  
23 Defendant. )  
24 \_\_\_\_\_ )  
25 )  
26 )  
27 )  
28 )

19 IT IS HEREBY STIPULATED by and between Phillip A. Talbert, United States  
20 Attorney, through Rosanne Rust, Assistant United States Attorney, counsel for Plaintiff, and  
21 Heather Williams, Federal Defender, through Assistant Federal Defender Jerome Price, counsel  
22 for Defendant Brenda Villa, that Defendant Brenda Villa may remain on release status under her  
23 previously-ordered release conditions pending the resolution of her appeal filed in the Ninth  
24 Circuit Court of Appeals.

25 Defendants who have been sentenced to a term of imprisonment and are pursuing an  
26 appeal may be granted release pending that appeal pursuant to 18 U.S.C. § 3143(b). To grant  
27 such a motion, the Court needs to find by clear and convincing evidence that the defendant is not  
28 likely to flee or pose a danger to the safety of the community. §3143(b)(1)(A). Further, the  
Court needs to find that the appeal is not for delay and raises a substantial question of law or fact

1 likely to result in a reversal, new trial, or a sentence that does not include a term of  
2 imprisonment. *Id.* The Ninth Circuit has held that the phrase “substantial question likely to  
3 result in reversal or an order for a new trial” does not require the defendant to prove that they  
4 will probably prevail on appeal. *United States v. Handy*, 761 F.2d 1279, 1280 (9th Cir.  
5 1985). Rather, “substantial” merely defines the “level of merit” required in the question  
6 presented, while the phrase “likely to result in reversal or an order for a new trial” defines the  
7 “type of question” that must be presented.” *Id.* The Ninth Circuit has defined a “substantial  
8 question” as one that is “fairly debatable.” *Id.* at 1283.

9 The parties, through this stipulation, stipulate that Ms. Villa is not likely to flee or pose a  
10 danger to the safety of the community. Ms. Villa has not been found in violation of her release  
11 conditions throughout her period of supervision. She has made every required court appearance  
12 in this case, including two jury trials and her sentencing hearing. Ms. Villa has also not  
13 conducted herself during the pendency of the case in a way that would indicate that she currently  
14 poses a danger.

15 Further, the parties stipulate that the appeal is not filed for the purpose of delay and that  
16 Ms. Villa seeks to raise substantial questions of law or fact. For example, Ms. Villa plans to  
17 challenge the admission of statements at trial from a non-testifying declarant under the co-  
18 conspirator exception to the hearsay rule. This type of question is substantial in that it is fairly  
19 debatable and a favorable decision on the question may result in a new trial.

20 Ms. Villa was sentenced to a term of imprisonment for 6 months. She was given a self-  
21 report date of April 29, 2024. The parties acknowledge it would be unlikely to fully brief the  
22 issues Ms. Villa plans to raise resulting from two jury trials, have oral argument, and obtain a  
23 decision from the Ninth Circuit before Ms. Villa would have served her entire sentence, even  
24 under an accelerated briefing schedule. Nevertheless, the parties will endeavor to move through  
25 the next phase of litigation in the Ninth Circuit as quickly and efficiently as possible.

26 Accordingly, the parties stipulate that Ms. Villa may remain out-of-custody until her  
27 appeal resolves.

28

1 Respectfully submitted,

2 HEATHER E. WILLIAMS  
3 Federal Defender

4 Date: April 8, 2024

/s/ Jerome Price  
5 JEROME PRICE  
6 Assistant Federal Defender  
7 Attorneys for Defendant  
8 BRENDA VILLA

9 Date: April 8, 2024

10 PHILLIP A. TALBERT  
11 United States Attorney

/s/ Rosanne Rust  
12 ROSANNE RUST  
13 Assistant U.S. Attorney  
14 Attorney for Plaintiff

**ORDER**

15 IT IS HEREBY ORDERED, the Court, having received and considered the parties'  
16 stipulation, and good cause appearing therefrom, adopts the parties' stipulation in its entirety as  
17 its order. Defendant Brenda Villa will remain on pretrial release under her previously-ordered  
18 conditions of release until further order of this Court. Her surrender date of April 29, 2024, is  
19 hereby vacated.

20 **IT IS SO ORDERED.**

21  
22 Dated: April 9, 2024

  
23 WILLIAM B. SHUBB  
24 UNITED STATES DISTRICT JUDGE  
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